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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 ANTONIO TAYLOR,

11 Petitioner,

No. CIV-S-04-2123 GEB KJM P

12 vs.

13 SUPERIOR COURT, COUNTY OF
14 SAN JOAQUIN,

15 Respondent.

ORDER

16 _____/
17 Petitioner, a state prisoner proceeding pro se, has filed a “petition for writ of
18 mandate / prohibition.” Because this is not a proper request for relief in this court, the “petition”
19 will be dismissed. Petitioner will be given thirty days within which to file either an application
20 for writ of habeas corpus under 28 U.S.C. § 2254, or a complaint alleging violation of civil
21 rights. Generally speaking, petitioner should file a petition under § 2254 if he seeks release from
22 custody or a reduction of his sentence. If he feels his Constitutional rights have been violated
due to conditions of confinement, he should file a § 1983 complaint.

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Accordingly, IT IS HEREBY ORDERED that:

1. Petitioner's "petition for writ of mandate / prohibition" is denied;

2. The Clerk of the Court is directed to send petitioner the court's form for application for writ of habeas corpus by state prisoners and form-complaint for violations of civil rights alleged by prisoners;

3. Petitioner shall file either a completed § 2254 petition or § 1983 complaint within thirty days of this order. Plaintiff's failure to comply with this order will result in a recommendation that this action be dismissed.

DATED: May 13, 2005.


UNITED STATES MAGISTRATE JUDGE

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